

**701—39.4(422) Filing status.**

**39.4(1) *Single taxpayers.*** The term “single person” includes, for income tax purposes, an unmarried person, a person legally separated under a decree of divorce or separate maintenance or any other person not properly classified under subrules 39.4(2) through 39.4(8).

**39.4(2) *Married taxpayers.*** A taxpayer is considered married for the entire year if on the last day of the tax year the taxpayer is (a) married and living together with the taxpayer’s spouse, (b) married and living apart from the spouse, but not legally separated under a decree of divorce or separate maintenance, (c) living together with the spouse in a common law marriage that is recognized by the state where the common law marriage exists or (d) widowed but the spouse died during the year.

**39.4(3) *Common law marriage.*** A common law marriage is a social relationship between a man and a woman that meets all the necessary requisites of a marriage except that it was not solemnized, performed or witnessed by an official authorized by law to perform marriages. The necessary elements of a common law marriage are: (a) a present intent of both parties freely given to become married, (b) a public declaration by the parties or a holding out to the public that they are husband and wife, (c) continuous cohabitation together as husband and wife (this means consummation of the marriage), and (d) both parties must be capable of entering into the marriage relationship. No special time limit is necessary to establish a common law marriage. Iowa recognizes, for income tax purposes, all valid common law marriages.

**39.4(4) *Married filing jointly.*** Married taxpayers who file a joint return with the Internal Revenue Service may file a joint return with the Iowa department of revenue.

**39.4(5) *Married filing separately on the same form.*** Married taxpayers may file separately on the same form. This return is also known as the combined return. If a married taxpayer files a combined return with his or her spouse, any refund will be issued in both names.

**39.4(6) *Married filing separately.*** Married taxpayers, each having income in his or her own right, may file separate returns if they do not wish to file separately on the same form.

**39.4(7) *Head of household.*** The term “head of household” shall have the same meaning as defined in the Internal Revenue Code. An individual who is claiming “surviving spouse” status for federal income tax purposes may not claim “head of household” on the Iowa individual income tax return.

**39.4(8) *Surviving spouse.*** The term “surviving spouse” shall have the same meaning as defined in the Internal Revenue Code. Individuals who qualify and file as a qualifying widow(er) with a dependent child on the federal return may file using the same filing status on the Iowa return.

This rule is intended to implement Iowa Code section 422.12.